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MINISTRY OF HOME AFFAIRS

RESOLUTION

New Delhi, dated the 27th May, 1959

No. F. 15/58-HS.—Life Insurance was nationalised on the 19th January, 1956, and Government assumed management of all Life Insurance Companies in India. At that stage, the Companies were managed through Custodians who were under the administrative charge of the Ministry of Finance. On the 1st September, 1956, the Life Insurance Corporation Act came into force and all the Life Insurance Companies numbering about 210 were amalgamated into one corporation. Certain investments made by the Life Insurance Corporation in 1957, by the purchase of the shares of Shri H. D. Mundhra in different concerns attracted critical public attention. After a discussion in the Lok Sabha in December, 1957, the Government of India set up a commission of inquiry under the Commissions of Inquiry Act, 1952, on the 17th January, 1958, to enquire into and report on these transactions of the Life Insurance Corporation. Shri M. C. Chagla, the Chief Justice of the Bombay High Court, was appointed the sole member of the Commission.

2. The Chagla Commission submitted its report to Government on the 10th February, 1958, and the report was discussed in the Lok Sabha on the 19th and the 20th February, 1958, and in the Rajya Sabha on the 21st February, 1958. According to the Resolution on the report adopted by both Houses, Government accepted the Commission's finding to the effect that the transaction resulting in the purchase of shares of the six companies was not entered into in accordance with business principles and was also opposed to propriety on several grounds and undertook to initiate appropriate proceedings on the basis of the findings of the Commission, in respect of the officers responsible for putting through the transaction.

3. The main subject of inquiry by the Chagla Commission related to the transaction towards the end of June, 1957, when shares of six Mundhra concerns for Rs. 1,26,25,750/- were purchased by the Life Insurance Corporation. The report also contained certain adverse remarks in respect of two other transactions viz:

- (1) the purchase of 50,000 shares of Jessop & Co. by the Life Insurance Corporation directly from Shri Mundhra in April, 1957,

and

- (2) the purchases of September, 1957, of certain more shares of Jessop & Co. and Richardson & Cruddas alleged to have been purchased by the Life Insurance Corporation under instructions of Shri H. M. Patel.

Shri H. M. Patel was Principal Finance Secretary to the Government of India as well as the Chairman of the Life Insurance Corporation when the April, 1957, transaction took place. Shri Kamat took over as Chairman of the Life Insurance Corporation on June 5, 1957, thereafter Shri Patel was only Principal Finance Secretary. Shri L. S. Vaidyanathan was Managing Director of the Life Insurance Corporation when all these three transactions took place. In fulfilment of their undertaking given to the Houses of Parliament, Government initiated proceedings under the All India Services (Discipline & Appeal) Rules,

1955, against Shri H. M. Patel and Shri G. R. Kamat. Charges in the light of the Chagla Commission report were framed against them and their explanations were called for. Similarly necessary charges were framed against Shri Vaidyanathan. The charges are set out in detail in Appendices 'F', 'G' and 'H' of the Vivian Bose report.

4. On receipt of the explanations of the officers a Board of Inquiry was set up on the 5th May, 1958, with Shri Justice Vivian Bose as Chairman and Shri Sukumar Sen and Shri W. R. S. Sathianadhan as members to enquire into the charges against Shri Patel and Shri Kamat. Since the charges against all the three officers related to the same transaction, the same Board were also asked by the Life Insurance Corporation to inquire into the charges against Shri L. S. Vaidyanathan. The Board submitted their report to Government on the 21st September, 1958. On the basis of the Board's findings in respect of the charges, Government issued notice to Shri H. M. Patel asking him to show cause why the penalty of removal from service should not be imposed on him. Similar notice was issued to Shri G. R. Kamat asking him to show cause why the penalty of compulsory retirement from service should not be imposed on him. The two officers submitted their representations in response to these notices by the beginning of January, 1959. As required under their service rules, the cases of these two officers were then referred on 27th January, 1959, to the Union Public Service Commission with all the relevant records for their advice on the charges against them and the penalties proposed to be imposed on them. The Union Public Service Commission have come to the conclusion that no blame attaches to Shri Patel in regard to the matters referred to in these charges and consider that taking into account all the circumstances of the case he should be exonerated of the charges framed against him. They have advised Government accordingly. The Government have also received from the Commission a copy of a minute of dissent recorded by one of its members, Shri J. Sivasubramanian Pillai. In his opinion the charges which the Vivian Bose Board have held to be established against Shri Patel "are proved". He thinks that the penalty of "compulsory retirement would meet the ends of justice". The Union Public Service Commission are of the view that charges against Shri Kamath are proved to the extent that the impropriety and the unbusiness like nature of the transaction are established in regard to the prices fixed and the resultant loss to the Corporation and that due care and caution were not exercised by him in fixing the prices. The Union Public Service Commission have held that Shri Kamat's fault lay in placing too much reliance on the Managing Director, Shri L. S. Vaidyanathan, and not himself paying adequate attention to fixing the prices of the shares. The Commission consider that having regard to all the circumstances of the case and Shri Kamat's record of service the requirements of the case will be met if the penalty of 'censure' is imposed on him. They have advised Government accordingly. No minute of dissent regarding his case has been received by Government.

5. These transactions of the Life Insurance Corporation have aroused considerable public interest. The inquiry before the Chagla Commission was a public one; there had been no preliminary investigation. There were no definite accused persons. The Vivian Bose Board of Inquiry functioned in camera. Under specific rules they had to consider the matter in respect of certain charges framed against certain officers to assess their responsibility and culpability, if any. The inquiry bodies held their inquiries in the manner they considered appropriate and examined such records or heard witnesses they considered relevant. They were also assisted by counsel. The Government of India provided all facilities to both these bodies and placed at their disposal whatever material was required by them.

The Government consulted the Union Public Service Commission in respect of the cases of Shri Patel and Shri Kamat in accordance with the provisions of the Constitution and the relevant service rules applicable to them. All the records which were available before the Chagla Commission were available to the Vivian Bose Board of Inquiry. All the proceedings before the Vivian Bose Board of Inquiry and the representations of the officers against whom the Vivian Bose Board of Inquiry had reported were made available to the Union Public Service Commission. All other material required by the Union Public Service Commission was supplied to them.

Thus, at different stages the Government of India have duly considered and have proceeded further in the light of the findings of each of these bodies in regard to the respective matters which were entrusted to them and on which they formulated their conclusions or tendered their advice.

6. It appears from a perusal of the reports of the Chagla Commission, the Vivian Bose Board of Inquiry and the advice of the Union Public Service Commission that there are variations on some points in the findings or opinions of these bodies or in their appreciation of the evidence before them. In their report certain observations not strictly relevant to the matter entrusted to them have been made by the Vivian Bose Board of Inquiry. The

Government of India have now had the benefit of the advice of the Union Public Service Commission and consider it necessary to review the position briefly to the extent necessary at this stage.

7. The Government of India have already accepted that in the light of the evidence available to the Chagla Commission that the transaction in question was not entered into in accordance with business principles and was also opposed to propriety on several grounds. In this connection, the Chagla Commission as well as the Vivian Bose Board of Inquiry after an examination of the evidence before them came to the conclusion that the view entertained by Shri Patel that the Mundhra shares operated as a drag on the Calcutta exchange and that in order to create confidence in the market it was essential that they should be brought to such levels as they should ordinarily be by means of purchases to be made by the Life Insurance Corporation, was in fact unsound. Shri Kamat's defence was that he had no reason to doubt the expert appreciation of Shri Patel in this connection. The Vivian Bose Board of Inquiry reiterated the conclusions of the Chagla Commission. Both these bodies came to the conclusion that the views of Shri Patel were erroneous and the advice or instructions given by him on this basis to Shri Kamat were not justifiable. They have also reached the conclusion that the object of the June transaction was to help Shri Mundhra. The Union Public Service Commission "are satisfied that, while it could possibly have been argued that there existed no immediate danger to the Calcutta Stock Exchange arising from the Mundhra drag, the officers concerned were fully justified in coming to the conclusion that the threat to the market had not passed." They have held "That Shri Mundhra benefited was an incidental consequence inherent in the decision but by no means its main purpose". The Government of India agree that whilst there may be differences of opinion regarding the appreciation of the economic situation and the proper remedy therefore as made by Shri Patel, due regard should also be paid to the fact whether in the light of his knowledge of the circumstances he genuinely and *bona fide* felt that his appreciation of the situation was correct and that the remedy proposed by him was required in the public interest.

8. The Vivian Bose Board have noted that the only motive to help Shri Mundhra that suggested itself to the Board so far as the record before them went, was "*a quid pro quo* for the donations given by Mr. Mundhra to the Congress Funds and an attempt to fulfil promises made to him about the Kanpur Mills". The Union Public Service Commission after a study of the same evidence are unanimous in disagreeing with this suggestion. They have observed that they "have been unable to find anything in the papers referred to them to support the view that the transaction was entered into as a *quid pro quo* for the 'generous gestures' of Shri Mundhra ... Nor can it be said to be altogether unusual for Government to intervene in the public interest in a situation that threatens large scale unemployment of industrial labour as in the case of Kanpur Cotton Mills. In the circumstances, the Commission consider that there is no ground for the inferences that either Shri Mundhra's donations amounting to Rs. 2½ lakhs, or his agreement to defer the closure of the Kanpur Cotton Mills placed the Government under any obligation—express or implied—to enter into a transaction with him of the order of over a crore of rupees". No such evidence was produced by Shri Patel in his defence. The Vivian Bose Board did not put this point to the Finance Minister, nor the Principal Finance Secretary nor any official of the Life Insurance Corporation, in the course of their examination. No such suggestion regarding his expectations was made by Shri Mundhra in the course of his evidence. If the Board felt that there were some *prima facie* grounds for such a suspicion they could have asked other important witnesses and Ministers who have been named in their report to appear before them. No such enquiry was held, and yet these remarks were recorded. In regard to the Kanpur Cotton Mills, the evidence available before the Board showed that the main consideration which weighed with the authorities to use their good offices was the risk of the large unemployment which might follow the closure of the Mills. The Government of India consider that there is no justification for the suggestion regarding this possible motive as has been mentioned in the report of the Vivian Bose Board.

9. Certain observations in the report of the Vivian Bose Board indicate their feeling that there was a lack of regard for the autonomous working of the Life Insurance Corporation.

The Government of India fully appreciate that it is essential that the authority and powers of such corporations should be clearly defined under the relevant statute or charter and normally the corporation should function freely within the field so defined. But, in the very terms of the charter, certain matters mainly, but not entirely, of policy, would be specifically reserved for the Government. The 'autonomous functions' of a corporation would mean 'free functioning' of that body within the terms of the charter and in conformity with the policy and guidance of Government given from time to time. The responsibility for supervising, guiding and directing the body in order to ensure its proper working rests on Government who have to assume it to enable them to discharge their duty to Parliament. It is the responsibility of Government to take appropriate remedial action

if and when the working of a corporation so requires. Excessive formalisation of the relations between the Government and the corporation would be unworkable and undesirable. It follows, therefore, that the legal provisions regarding the power to give directions to a corporation should not be so construed as to prevent Government from having recourse to other channels of communication, such as informal discussion or conferences. There is no reason why Government should confine their contact with a corporation merely to giving statutory directions.

10. The evidence produced in this case has been examined minutely by the different bodies. It is clear from the evidence that the initiative for the purchase of the Mundhra shares in the June transaction did not emanate from the Minister himself. The selection of all the shares and the determination of the prices or the principles on which they were to be based were not brought to the notice of the Minister before the transaction was concluded. Thus, in so far as the transaction itself is concerned, only the constitutional responsibility of the Minister was attracted and as a consequence he resigned.

11. Government have given full consideration to the matter on the advice of the Union Public Service Commission and have also considered the minute of dissent of Shri J. Sivasubramugam Pillai. Whilst Government feel that there is some force in the minute of dissent in regard to the criticism of Shri Patel, in view of the long and distinguished record of Shri Patel in service, the complicated post budget economic situation in 1957, the absence of any *mala fides* and the weight which, according to convention, attaches to the advice of the Union Public Service Commission in such matters, the Government of India have decided to drop the charges against him.

12. In regard to Shri Kamat, it has to be borne in mind that he had been Chairman of the Corporation for barely three weeks when the transaction took place and his knowledge of the details of the procedure of investments and how prices were fixed in the Stock Exchange was very meagre. It was, therefore, not unnatural for him to rely upon the advice of senior and experienced officers like Shri Patel and Shri Vaidyanathan. There can, however, be no doubt about his legal and technical liability on the basis of the assessment of the evidence both by the Vivian Bose Board of Inquiry as well as the Union Public Service Commission. Having due regard to all the circumstances of the case and his long and good record of service, the Government of India have decided that, as advised by the Union Public Service Commission, only the penalty of censure be imposed upon him.

13. Shri L. S. Vaidyanathan is an employee of the Life Insurance Corporation. A reference has been made to the Corporation to deal with his case in the light of the findings of the Vivian Bose Board's report and the explanations which have been submitted by him.

14. The Vivian Bose Board of Inquiry made certain observations in their report in regard to Shri H. V. R. Iengar, Governor of the Reserve Bank, and Shri P. C. Bhattacharyya, Chairman of the State Bank. Neither of these two officers was an accused person before the Board. Neither had the opportunity before the Board of explaining the criticism made against him. The Government of India consider it unfortunate that the adverse observations regarding them should have been made.

15. In conclusion, the Government of India wish to acknowledge with thanks their appreciation of the labours of Shri Justice Chagla, the Vivian Bose Board of Inquiry and the Union Public Service Commission.

ORDER

Ordered that a copy of the Resolution be published in the Gazette of India for general information

B. N. JHA, Secy.